

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-858

February 9, 1999

Maine Public Utilities Commission
Summary Investigation of Independent
Energy Producers of Maine's Allegations
into Central Maine Power Company's
Possible Violation of 35-M.R.S.A. Section
3205(3)(J) and 5-1-98 Order in Docket No. 97-930

ORDER DECLINING
TO TAKE ACTION
ON COMPLAINT

WELCH, Chairman; NUGENT, and DIAMOND Commissioners

I. SUMMARY

In this Order, we decline to take action on the complaint of the Independent Energy Producers of Maine (IEPM) against Central Maine Power (CMP) because we find that the complaint is mooted by CMP's closure of its energy marketing affiliate.

II. BACKGROUND AND DECISION

On November 4, 1998, the IEPM filed a complaint against CMP alleging that certain material published by CMP that related to its affiliated energy provider constituted prohibited conduct under 35-A M.R.S.A. § 3205(3)(J) and that CMP subsidized the advertising expenses of its affiliated provider in violation of the May 1, 1998 Order approving the CMP reorganization in Docket No. 97-930. The IEPM sought a Commission order requiring CMP to (1) collect the customer guide complained of, (2) cease identifying its affiliated energy provider in its press releases and (3) remove the link to the marketing affiliate from CMP's Internet site and at the request of any electricity provider provide a link to that provider for the period of time that CMP's affiliate has been in existence.

On December 15, 1998, CMP filed a response to the complaint. On December 22, 1998, CMP announced that it would shut down its energy marketing subsidiary at year end. On January 12, 1999 CMP filed a Motion to Dismiss the complaint on the grounds that the complaint is moot because CMP's affiliated competitive electricity provider ceased operations as an electric energy marketing organization. On January 19, 1999, the IEPM filed a letter stating that it has no objection to CMP's Motion to Dismiss on mootness grounds.

We consider the IEPM's complaint an informal complaint pursuant to MPUC Rules Ch. 110 § 1102. Thus, following a summary investigation, we may either open an inquiry, institute an adjudicatory investigation or decline to take action. *Id.* In this case, we conclude that CMP's closure of its affiliated energy marketer moots the IEPM's informal complaint. Since CMP no longer has an affiliated competitive electricity provider, there is no longer any live controversy in this case about CMP's interactions with such an affiliated provider, and a decision in an adjudicatory investigation on the allegations would not provide any real or effective relief to the IEPM. *See Campaign for Sensible Transportation v. Maine Turnpike Authority*, 658 A.2d 213, 215 (Me. 1995) (after referendum resulted in a defeat of the plan to widen the turnpike, a political action committee's appeal of the denial of an injunction prohibiting the turnpike authority from expending any public funds to influence the outcome of the referendum was moot because granting the injunction would afford no effective relief to the committee). Accordingly, we decline to take action on the IEPM's complaint on the basis that the complaint is moot.

Accordingly we

O R D E R

1. That this docket is closed.

Dated at Augusta, Maine this 9th day of February, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Absent Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.